

BEFORE THE ARIZONA VETERINARY MEDICAL EXAMINING BOARD

IN THE MATTER OF:) CASE No.: 21-118
)
KENNETH HALBACH, DVM) CONSENT AGREEMENT
) FINDINGS OF FACT
HOLDER OF LICENSE No. 0850) CONCLUSIONS OF LAW
FOR THE PRACTICE OF VETERINARY) AND ORDER
MEDICINE IN THE STATE OF ARIZONA,)
)
RESPONDENT.)

In the interest of a prompt and judicious settlement of the above captioned matter before the Arizona State Veterinary Medical Examining Board ("Board") and consistent with the public interest, statutory requirements and responsibilities of the Board, and pursuant to A.R.S. §32-2201 *et. seq.* and A.R.S. § 41-1092.07 (F)(5), the undersigned party, Kenneth Halbach, D.V.M. ("Respondent"), holder of license No. 0850 for the practice of veterinary medicine in Arizona and the Board enter into this Consent Agreement, Findings of Fact, Conclusion of Law and Order ("Consent Agreement") as final disposition of this matter.

CONSENT AGREEMENT

Respondent understands and agrees that:

1. The Board has jurisdiction over Respondent and the subject matter pursuant to A.R.S. §32-2201, *et. seq.*

2. Respondent has the right to consult with an attorney prior to entering into this Consent Agreement. Respondent has a right to a public hearing

1 concerning this case. He further acknowledges that at such hearing he could
2 present evidence and cross-examine witnesses. Respondent irrevocably waives
3 his right to such a hearing.

4 3. Respondent irrevocably waives any right to rehearing or review or to any
5 judicial review or any other appeal of these matters.

6 4. The Consent Agreement, once approved by the Board and signed by the
7 Respondent, shall constitute a public record, which may be disseminated as a
8 formal action of the Board. Sufficient evidence exists for the Board to make the
9 Findings of Fact and Conclusions of Law set forth in the Consent Agreement.

10 5. Respondent acknowledges and understands that this Consent
11 Agreement will not become effective until the Board approves it and it is signed
12 by the Board's Executive Director. Respondent acknowledges and agrees that
13 upon signing and returning this Consent Agreement to the Board's Executive
14 Director, Respondent may not revoke his acceptance of the Consent
15 Agreement or make any modifications to the document, regardless of whether
16 the Consent Agreement has been issued by the Executive Director.

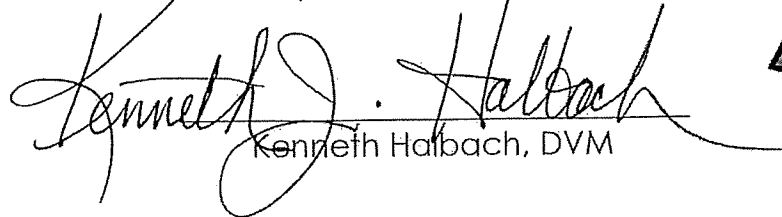
17 6. If any part of the Consent Agreement is later declared void or otherwise
18 unenforceable, the remainder of the Order in its entirety shall remain in force
19 and effect.

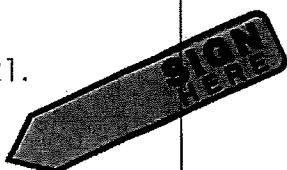
20 7. Respondent acknowledges that any violation of this Consent Agreement
21 constitutes unprofessional conduct pursuant to A.R.S. § 32-2232 and may result
22 in disciplinary action pursuant to A.R.S. § 32-2234.

23 8. This Consent Agreement and Order is effective on the date signed by the
24 Board.
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DATED this 9TH day of DEC 2021.


Kenneth Halbach, DVM



FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of veterinary medicine in the State of Arizona.

2. Respondent holds license No. 0850 for the practice of veterinary medicine in the State of Arizona.

3. On March 9, 2021, at 11:30am, "Pansie," an 8-year-old intact female Shih Tzu was presented to Respondent's associate, Dr. Conley, due to anorexia and lethargy. Complainant reported that the dog was not eating but did eat some chicken the previous evening. The dog's last heat cycle was approximately 6 months ago. Dr. Conley examined the dog and found a weight = 15 pounds, a temperature = 103.9 degrees, a pulse rate = 160bpm, and a respiration rate = 25rpm. The only exam result that was noted in the medical record was urogenital – abnormal.

4. According to Dr. Conley, based on the dog's history and her physical exam, she suspected pyometra and recommended radiographs and bloodwork. Complainant agreed. The medical record reads that an ultrasound was performed – unclear if the diagnostic was performed, no mention of results in the medical record. The right lateral radiograph revealed dilated fluid/soft tissue filled tubular structures in the mid and caudal abdomen displacing the gastrointestinal tract (these radiographs results were not documented in the

1 medical record). In-house blood work revealed abnormalities which supported
2 Dr. Conley's diagnosis.

3 5. Dr. Conley discussed the diagnostic findings with Complainant and their
4 support of pyometra. She recommended hospitalization with IV fluids,
5 antibiotics and pain medications, to stabilize the dog before attempting
6 surgery. Complainant expressed financial constraints and wanted to take the
7 dog home until she could have surgery. Dr. Conley felt the dog was not stable
8 enough to go home or proceed with immediate surgery. Complainant
9 declined further services and wanted to speak with Respondent, her primary
10 veterinarian at the premises.

11 6. According to Complainant, Respondent entered the exam room and told
12 her that they would be keeping the dog overnight on antibiotics and fluids and
13 he would operate on the dog first thing in the morning. Complainant agreed.

14 7. According to Respondent, he advised Complainant that he was taking
15 over the care of the dog. He wanted to put the dog on IV fluids and antibiotics
16 to stabilize her so he could perform surgery on the dog the following day. They
17 discussed sending the dog home after 5:00pm when the premises closed, but
18 Respondent felt the dog was fragile enough that staying at the premises was
19 less stressful than going home or being transferred. Complainant agreed and
20 left the premises with an estimate of fees.

21 8. The dog was started on IV fluids – Lactated Ringers with 55mLs of Dextrose
22 added to the liter bag – 250mLs today (unclear if this is the amount of fluids the
23 dog received that day). Later in the day, around 3:30pm, the dog was
24 administered the following:

- 25 a. Banamine 10mg IV (large animal NSAID);

1 b. Ampicillin 250mg IV; and

2 c. Baytril 75mg IV.

3 9. Respondent stated in his narrative that at the end of the day, the IV fluids
4 were disconnected and the dog was still lethargic. The plan was to perform
5 surgery on the dog first thing in the morning. There was no information on the
6 dog's condition at the end of the day documented in the medical record.
7 Additionally, it was determined that Respondent returned that evening, around
8 8:00pm, to assess the dog. That assessment was not documented in the
9 medical record.

10 10. On March 10, 2021, Respondent arrived at the premises at 7:00am. When
11 he checked the dog, he found that the dog had died overnight. Respondent
12 called Complainant with the news. Complainant was upset and came down to
13 visit the dog. Cremation was offered; Complainant chose to have the dog
14 individual cremated with a paw print.

15 11. On March 10, 2021, Respondent arrived at the premises at 7:00am. When
16 he checked the dog, he found that the dog had died overnight. Respondent
17 called Complainant with the news. Complainant was upset and came down to
18 visit the dog. Cremation was offered; Complainant chose to have the dog
19 individual cremated with a paw print.

20 12. According to Dr. Nightengale, the responsible veterinarian for the
21 premises, Complainant was aware that they were not a 24-hour facility as their
22 overnight hospitalization policy is clearly stated on the numerous consent forms
23 signed by Complainant in the past. Dr. Nightengale and his associates
24 submitted authorization forms Complainant signed in the past which states that
25 personnel is not present for 24 hour observation at the premises. However, it

1 does not appear that Complainant signed an authorization form for the March
2 9, 2021 hospitalization.

3 CONCLUSIONS OF LAW

4 13. The Findings of Fact constitutes a violation of **A.R.S. § 32-2232 (21)** as it
5 relates to **A.A.C. R3-11-502 (L) (4)** failure to record in the dog's medical record
6 the results of examinations that were conducted after hours at approximately
7 5:15pm and 8:00pm on March 9, 2021.

8 14. The Findings of Fact constitutes a violation of **A.R.S. § 32-2232 (21)** as it
9 relates to **A.A.C. R3-11-502 (L) (9)** failure to document in the dog's medical
10 record the blood work and radiograph results.

11 ORDER

12 Based upon the foregoing Findings of Fact and Conclusions of Law, it is
13 **ORDERED** that Respondent, License No. 0850, be placed on **PROBATION** for a
14 period of **one (1) year**, subject to the following terms and conditions that shall
15 be completed within the Probationary period. These requirements include eight
16 (8) hours of continuing education (CE) and a civil penalty as detailed below:

17 1. In addition to the continuing education requirements of A.A.C. R3-11-
18 401(A), within 12 months of the effective date of this Order, Respondent shall
19 complete **eight (8) hours of CE in the area of medical record keeping**. All
20 required CE shall be pre-approved by the Board. Within sixty (60) days of the
21 effective date of this Order, Respondent shall submit to the Board for its
22 approval a **written outline regarding how he plans to satisfy the CE**
23 **requirements**. The outline shall include CE course details including name,
24 provider, date(s), hours of CE to be earned, and a brief course summary.

2. Prior to the end of the Probationary period, Respondent shall submit to the Board a certificate(s) of completion of the CE outlined in the CE plan which had been approved by the Board.

3. **IT IS FURTHER ORDERED** that Respondent pay a civil penalty of **\$1,000 civil penalty (\$500 per violation)** in the form of a **cashier's check, certified check, or money order** made payable to the Arizona Veterinary Medical Examining Board on or before the end of the Probationary period.

4. Respondent shall obey all federal, state and local laws/rules governing the practice of veterinary medicine in this state.

5. Respondent shall bear all costs of complying with this Consent Agreement.

6. This Consent Agreement is conclusive evidence of the matters described and may be considered by the Board in determining an appropriate sanction in the event a subsequent violation occurs. In the event Respondent violates any term of this Consent Agreement, the Board may, after opportunity for Informal Interview or Formal Hearing, take any other appropriate disciplinary action authorized by law, including suspension or revocation of Respondent's license.

ISSUED THIS 13th DAY OF December, 2021.

FOR THE BOARD:

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

Jim Loughhead, Chairperson

By Victoria Whitmore

Victoria Whitmore, Executive Director

1 Original of the foregoing filed
2 This 13th day of December 2021 with:

3 Arizona State Veterinary Medical Examining Board
4 1740 W. Adams St, Ste. 4600
5 Phoenix, Arizona 85007

6 Copy of the foregoing mailed by Certified, return receipt mail
7 This 13th day of December, 2021 to:

8 Kenneth Halbach, DVM
9 Address on file
10 Respondent

11 Copy of the foregoing sent by regular mail
12 this 13th day of December, 2021 to:

13 David Stoll, Esq.
14 Beaugureau, Hancock, Stoll and Schwartz, PC
15 302 E. Coronado Rd
16 Phoenix, Arizona 85004

17
18 By: 

Board Staff